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EXAMINER
YAO, KWANG BIN

ART UNIT	PAPER NUMBER
2667	

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

		Application No.	Applicant(s)
Office Action Summary		08/741,265	SINGH ET AL.
		Examiner	**Art Unit**
		Kwang B. Yao	2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _14 June 2004 and 17 June 2005_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-12 and 16-38_ is/are pending in the application.

    4a) Of the above claim(s) _34-38_ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-12 and 16-33_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1.   Applicant's election with traverse of Group I in the reply filed on 6/7/05 is acknowledged.

The traversal is on the ground(s) that one independent claim is written more narrowly than

another independent claim. This is not found persuasive because Inventions I and II are related

as subcombinations disclosed as usable together in a single combination. The subcombinations

are distinct from each other if they are shown to be separately usable. In the instant case,

inventions I and II have separate utility such as the followings: Inventions and II are related as

subcombinations disclosed as usable together in a single combination of telephonic

communication between a calling party and another party; Invention I has separate utility of

"analyzing the audio information as a function of Internet protocol connectivity status of the

telephonic communication addressee to establish internet telephonic communications"; Invention

II has separate utility of "analyze the telephonic communication address to establish internet

telephonic communications". See MPEP § 806.05(d).

        The requirement is still deemed proper and is therefore made FINAL.

2.   This application contains claims 34-38 drawn to an invention nonelected with traverse in

Response filed on 6/7/05. A complete reply to the final rejection must include cancellation of

nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United
> States before the invention thereof by the applicant for patent, or on an international application by another who
> has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention
> thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002

do not apply when the reference is a U.S. patent resulting directly or indirectly from an

international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA

35 U.S.C. 102(e)).

4.   Claims 1, 4, 16-28, 30-33 are rejected under 35 U.S.C. 102(e) as being anticipated by

Kubler et al. (US 5,726,984).

Kubler et al. discloses a packet based communication system comprising the following

features: as depicted in Figs. 55a, 56a, 63, regarding claim 1, an arrangement for providing

telephonic communication which may be selectively transmitted via the Internet using standard

Internet protocols, comprising: a telephone (5530); and an interface unit (5601) coupled to the

telephone (5530) and configured and arranged to receive (5607) audio information designating a

telephonic communication addressee, the interface unit including a first output port (5605)

configured to be coupled to a standard switched telephone communications network, a second

output port (5604) configured to be coupled to an Internet communications network, and a

processing unit (5609) configured and arranged to analyze the audio information as a function of

Internet protocol connectivity status (column 100, lines 18-34; column 101, lines 10-24 and lines 57-63) of the telephonic communication addressee and, in response to the analysis, to determine whether the audio information received from the telephone is to be coupled to the first output port to establish a standard telephonic communication using the standard switched telephone communications network, or if the audio information is to be processed in accordance with the standard Internet transfer protocols and coupled to the second output port to establish an Internet communication using the Internet communications network to communicate the processed audio information in accordance with the standard Internet transfer protocols; regarding claim 4, wherein the standard Internet transfer protocols include a standard packetization protocol (5625, 5621) to packetize a stream of audio information; regarding claim 16, a telephone (5530); and interface means (5601) coupled to the telephone and configured and arranged to receive audio information designating a telephonic communication addressee, the interface means comprising: first output means (5605) configured to be coupled to a standard switched telephone communications network, second output means (5604) configured to be coupled to an Internet communications network, and processing means (5609) configured and arranged to determine, as a function of Internet protocol connectivity status (column 100, lines 18-34; column 101, lines 10-24 and lines 57-63) of the telephonic communication addressee, whether the audio information received from the telephone is to be coupled to the first output means to establish a standard telephonic communication using the standard switched telephone communications network, or to be processed in accordance with the standard Internet transfer protocols and coupled to the second output means to establish an Internet communication using the Internet communications network to communicate the processed audio information in accordance with

the standard Internet transfer protocols; regarding claim 17, providing an interface unit (5601)

having a memory (5623) and adapted to receive telephonic communication (5607) in response to

user intervention and to communicate the telephonic communication via at least one of a first

output (5605) coupled to a standard switched telephone network and a second output (5604)

coupled to an Internet communications network; providing a telephone device (5530)

communicatively coupled to the interface unit (5601); generating audio information, that

designates a communication addressee, at the telephone and sending the information to the

interface unit (5601); analyzing (5609) the audio information and therein automatically

determining, at the interface unit (5601), whether the audio information received from the

telephone is to be coupled to the first or second output as a function of Internet protocol

connectivity status (column 100, lines 18-34; column 101, lines 10-24 and lines 57-63) of the

telephonic communication addressee; and responsive to the determination, coupling the

telephone via the interface unit (5601) to at least one of the standard switched telephone network

and the Internet communications network; regarding claim 18, wherein automatically

determining whether the audio information is to be coupled to the first or second output is

responsive to comparing a DTMF code received as part of the audio information to a variable

stored in memory (cross-reference data base, described at line 6-17 of column 88) at the interface

(5601) and is without further user intervention; regarding claim 19, wherein automatically

determining whether the audio information is to be coupled to the first or second output is

responsive to detecting a DTMF code received as part of the audio information that represents

the number for a local Internet access provider and is without further user intervention; regarding

claim 20, wherein automatically determining (5609) whether the audio information is to be

coupled to the first or second output is responsive to comparing a DTMF code received as part of

the audio information to a telephone number stored in memory (cross-reference data base,

described at line 6-17 of column 88) at the interface and is without further user intervention;

regarding claim 21, wherein the interface unit (5601) further comprises a memory, and wherein

the processing unit is adapted to automatically determine whether the audio information is to be

coupled to the first or second output by comparing a DTMF code received as part of the audio

information to a variable stored in memory (cross-reference data base, described at line 6-17 of

column 88) at the interface, without further audio information; regarding claim 22, wherein the

processing unit (5609) is adapted to automatically determine whether the audio information is to

be coupled to the first or second output by detecting if a DTMF code received as part of the

audio information represents the number for a local Internet access provider, without further

audio information; regarding claim 23, wherein the interface unit further comprises a memory

(cross-reference data base, described at line 6-17 of column 88) , and wherein the processing unit

(5609) is adapted to automatically determine whether the audio information is to be coupled to

the first or second output by comparing a DTMF code received as part of the audio information

to a telephone number stored in memory at the interface, without further audio information;

regarding claim 24, an interface unit (5601) for providing telephonic communication, the

interface unit (5601) including: a first output port (5605) configured to be coupled to a standard

switched telephone communications network, a second output port (5604) configured to be

coupled to an Internet communications network, and a processing unit (5609) configured and

arranged to receive audio information including information that designates a telephonic

communication address, to analyze the telephonic communication address as a function of

Internet protocol connectivity status (column 100, lines 18-34; column 101, lines 10-24 and lines 57-63) of the telephonic communication addressee and, in response to the analysis, to determine whether the audio information is to be coupled to the first output port to establish a standard telephonic communication using the standard switched telephone communications network, or if the audio information is to be processed in accordance with the standard Internet transfer protocols and coupled to the second output port to establish an Internet communication using the Internet communications network to communicate the processed audio information in accordance with the standard Internet transfer protocols; regarding claim 25, a processing unit (5609) configured and arranged to receive audio information including information that designates a telephonic communication address, to analyze the telephonic communication address as a function of Internet protocol connectivity status (column 100, lines 18-34; column 101, lines 10-24 and lines 57-63) of the telephonic communication addressee and, in response to the analysis, to determine whether the audio information is to be transmitted via a standard switched telephone communications network or if the audio information is to be transmitted via an Internet communications network; regarding claim 26, wherein the processing unit (5609) is further configured and arranged to analyze a portion of the audio information that designates the telephonic communication addressee as a function of Internet protocol connectivity status (column 100, lines 18-34; column 101, lines 10-24 and lines 57-63) of the telephonic communication addressee by searching for an active Internet protocol address for the telephonic communication addressee; regarding claim 27, wherein the processing unit (5609) is configured and arranged to, in response to the addressee not having an active Internet protocol address, couple the audio information to the first output port to establish a standard telephonic

communication using the standard switched telephone communications network, and, in response to the addressee having an active Internet protocol address, couple the audio information to the second output port to establish an Internet communication using the Internet communications network to communicate the processed audio information in accordance with the standard Internet transfer protocols; regarding claim 28, wherein the processing unit (5609) is configured and arranged to associate the audio information with an Internet protocol address and to analyze the audio information as a function of Internet protocol connectivity status (column 100, lines 18-34; column 101, lines 10-24 and lines 57-63) of the telephonic communication addressee by using the Internet protocol address to determine whether the addressee is currently connected to the Internet; regarding claim 30, wherein the processing unit (5609) is further configured and arranged to analyze a portion of the audio information that designates the telephonic communication addressee as a function of Internet protocol connectivity status (column 100, lines 18-34; column 101, lines 10-24 and lines 57-63) of the telephonic communication addressee by searching the Internet for an active Internet protocol address for the telephonic communication addressee; regarding claim 31, an interface unit (5601) for providing telephonic communication between a calling party and another party, the interface unit (5601) comprising: a first output port configured to be coupled to a standard switched telephone communications network; a second output port configured to be coupled to an internet communications network; and a processing unit (5609) configured and arranged to: receive from the calling party a telephone number designating a telephonic communications addressee; communicate with an internet appliance to determine whether the telephonic communications addressee is accessible via internet protocol telephonic communications as a function of internet

connectivity status of the telephonic communications addressee; in response to determining that

the telephonic communications addressee is not accessible via internet protocol telephonic

communications, telephonically connect audio information from the calling party to the other

party via the first output port to establish standard telephonic communications between the

calling party and the other party using the standard switched telephone communications network;

and in response to determining that the telephone number is accessible via internet protocol

telephonic communications, telephonically connect audio information from the calling party to

the other party via the second output port to establish internet telephonic communications

between the calling party and the other party using the internet communications network;

regarding claim 32, wherein the processing unit (5609) is configured and arranged to

communicate with an internet appliance to determine whether the telephonic communications

addressee is accessible via internet protocol telephonic communications as a function of internet

connectivity status of the telephonic communications addressee by determining whether an

internet protocol telephone call made to the communications addressee is connected; regarding

claim 33, wherein the processing unit (5609) is configured and arranged to connect audio

information from the calling party to the other party via the first output port to establish standard

telephonic communications between the calling party and the other party using the standard

switched telephone communications network in response to an internet connection previously

available to the interface unit (5601) being disabled. See column 87-88, 99-102.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 2, 3, 5, 6, 12, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Kubler et al. (US 5,726,984) in view of Kuthyar et al. (US 5,909,431), Shinohara et al. (US

5,351,237).

Kubler et al. discloses the claimed limitations set forth. Kubler et al. does not disclose

the features of: RAS standard gatekeeper protocol, Q.931 standard Internet call protocol, H.245

standard end-to-end protocol; RTP standard protocol.

Kuthyar et al. discloses a real time multimedia service in a hybrid network comprising

the following the features: system control entity 106 in Fig. 3 using RAS standard gatekeeper

protocol; entity H.225.0/RTP 108 using standard real time transfer protocol. See column 4, line

67 to column 5, line 2. Kuthyar et al. discloses the features of using H.245 protocol, see column

5, line 64-67.

Shinohara et al. discloses a network system comprising the following features: DCH call

control section 333 in Fig. 2 using Q.931 standard call control protocol. See column 4, lines 39-

41.

Therefore, it would have been obvious to one of the ordinary skill in the art at the time of

the invention to modify the system of Kubler et al., by using the standard protocols, as taught by

Kuthyar et al., and Shinohara et al., in order to take advantage of well developed and globally

recognized standard protocols.

7.   Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubler et

al. (US 5,726,984) in view of Schulzrinne et al. (RFC 1889).

Kubler et al. discloses the claimed limitations set forth. Kubler et al. does not disclose

the features of: a standard quality of service protocol for gathering QoS statistics regarding

packetized information; monitoring QoS statistics to adaptively control a rate which audio

information is transferred. Schulzrinne et al. discloses the following features in RFC 1889: a

standard quality of service protocol for gathering QoS statistics regarding packetized

information; monitoring QoS statistics to adaptively control a rate which audio information is

transferred. Therefore, it would have been obvious to one of the ordinary skill in the art at the

time of the invention to modify the system of White et al, by using the features, as taught by

Schulzrinne et al., in order to reduce the possibility of network congestion.

8.   Claims 8, 9, 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Kubler et al.

(US 5,726,984) in view of Kuthyar et al. (US 5,909,431), and Shinohara et al. (US 5,351,237) as

applied to claims 1, 4, 5 above, and further in view of Schulzrinne et al. (RFC 1889).

Kubler et al., Kuthyar et al., Shinohara et al. disclose the claimed limitations set forth.

However, they do not disclose the features of: a standard quality of service protocol for gathering

QoS statistics regarding packetized information; standard quality of service protocol using

standard real time transfer control protocol RTCP; monitoring RTCP information to adaptively

control a rate which audio information is transferred. Schulzrinne et al. discloses the following

features in RFC 1889: a standard quality of service protocol for gathering QoS statistics

regarding packetized information; standard quality of service protocol using standard real time

transfer control protocol RTCP; monitoring RTCP information to adaptively control a rate which

audio information is transferred. Therefore, it would have been obvious to one of the ordinary

skill in the art at the time of the invention to modify the combined system of Kubler et al.,

Kuthyar et al., and Shinohara et al., by using the features, as taught by Schulzrinne et al., in order

to reduce the possibility of network congestion.

Response to Arguments

9.   Applicant's arguments filed 6/14/04 have been fully considered but they are not

persuasive.

On page 12 of the Response filed on 6/14/04, Applicant argues that the processing unit

5609 does not analyze the or designate a telephonic communication addressee and determine

whether the audio information is to coupled to a standard switched telephone network or an

Internet communication networks. Examiner respectfully disagrees with these arguments. As

described on column 100, lines 8-18, and column 101, lines 8-24 of Kubler et al., *"Alternatively,*

if the user of the telephone 6321 selects the first line, the computer 6301 delivers (via its

computer card) an internet dial message. The message prompts for the normal telephone number

of the destination device (i.e., the telephone 6323). In response, the computer 6301 attempts to

identify (from the telephone number entered) an internet address which is used for routing

information through the internet network. To perform this task, the computer 6301 uses an

internet/telephone number, cross-reference database which contains various telephone numbers

and associates therewith corresponding internet addresses"; "Upon a user's pickup of the

telephone 6323 to place a call, the computer 6303 responds by delivering a dial tone to the

telephone 6323. The computer 6303 then waits for the user entry of a telephone number (in this

case the number of the telephone 6321). Upon receipt of the telephone number, the computer

6323 checks for an internet address in its cross reference database. If an internet address is

found, the computer 6303 (via its computer card) delivers a voice message to the telephone 6323

prompting the user to select (via a keypad on the telephone 6323) either internet or telephone

switching system routing. If the user selects telephone switching system routing, the computer

6303 accesses the telephone line 6331, awaits a dial tone, dials the entered number, and,

thereafter, connects the telephone 6323 directly to the telephone line 6327. At that point, the

telephone 6323 interacts with basic call model processing associated with the telephone

switching network". It is clearly seen that reference of Kubler et al. does teach the claimed

limitations of "analyze the or designate a telephonic communication addressee and determine

whether the audio information is to coupled to a standard switched telephone network or an

Internet communication networks"

On page 12, last paragraph, Applicant argues that the processing unit 5609 cannot

automatically determine call processing routing characteristics based on designated telephonic

communication addressee information. Examiner respectfully disagrees with these arguments.

Nowhere in column 88, lines 6-17 of Kubler et al., states that the determination of the call

processing is NOT automatically executed by the host device. As a matter of fact, all the

executions are automatically executed by the host device based on the user demands.

On page 13, first and second paragraphs, Applicant argues that Examiner fails to show

correponsed between the cited references and all of the claimed limitations, fail to cite evidence

of motivation for modifying the primary reference. Examiner respectfully disagrees with these

arguments. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to

a general allegation that the claims define a patentable invention without specifically pointing

out how the language of the claims patentably distinguishes them from the references.

Conclusion

10.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

       Farris et al. (US 6,438,218) discloses an Internet telephone service.

11.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

       A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing
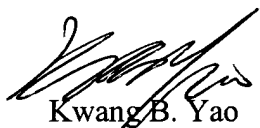
date of this final action.

12.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kwang B. Yao whose telephone number is 571-272-3182. The

examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chi H. Pham can be reached on 571-272-3179. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KWANG BIN YAO
PRIMARY EXAMINER

Kwang B. Yao
August 15, 2005